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BIODIVERSITY

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EXPERTS CHART FUTURE COURSE FOR CONSERVATION PLANS

Habitat Conservation Plans (HCPs) are the device by which private land and water rights holders make commitments to manage critical habitat to conserve species actually or potentially listed for protection under the Endangered Species Act. The incentive to prepare HCPs is a development permit that allows some “take” of such species or impairment of their habitat, plus a guarantee of immunity from further obligations under the ESA. These powerful incentives have caused a veritable explosion in HCPs in recent years. At present, some 400 are in various stages of preparation, approval or implementation. Approved plans alone cover some 18 million acres.

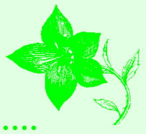
This conservation device has become increasingly controversial because the resulting plans have tended to contribute to the further decline rather than the recovery of the vulnerable species. Yet, some vehicle for private conservation efforts is indispensable since lands and waters subject to private property rights already comprise the habitat for 80 percent of threatened and endangered species. Overwhelmingly, the primary cause of extinction is habitat loss. Thus, habitat conservation planning on private lands cannot be allowed to fail. Figuring out how to get it right is both necessary and urgent.

As a first step in that direction, experts who have been conducting empirically-based performance reviews of HCPs convened in June in San Francisco under the auspices of the Natural Heritage Institute to pool their results and insights and attempt a common vision of how to fix a flawed process. The participants included university researchers, practicing conservation biologists who have become prominent in the design of HCPs, and representatives of conservation advocacy organizations.

The results were dramatic and suggest three fundamental avenues for reform:

HCPs do not achieve their conservation potential because individual landholdings are not the ecosystem-relevant planning unit.

Virtually every unsatisfactory aspect of HCPs could be markedly improved if they



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were preceded by and fit within conservation plans developed at the bio-regional or landscape scale. That would also alleviate some of the burdens of conservation planning from the landowners to the public agencies, which should cause them to embrace this proposal. Among the benefits would be (1) calibrating conservation plans to achieve species recovery instead of merely survival (the most that landowner-specific HCPs have been able to accomplish); (2) spreading the costs of marshaling a higher quality of conservation science at the formative stages at which mitigation measures and habitat reserves are designed; (3) enabling conservation strategies to evolve as the underlying science improves (adaptive management), which requires contingent strategies that are almost impossible to create on individual parcels; (4) and incorporating meaningful public participation, which is far easier to accommodate at the bio-regional level than the permit application level.

"Overwhelmingly, the primary cause of extinction is habitat loss."

Implementing this reform will not be easy. Possible vehicles include substantially upgrading the quality of "recovery plans", which is the device provided by the ESA for moving an endangered species beyond mere "survival", or devolving bio-regional conservation planning upon local units of government, where land use planning traditionally takes place. Both of these options need to be substantially refined to serve the broader objectives of bio-regional planning.

HCPs will never be better than the quality of the negotiations that produce them.

HCPs are irreducibly the product of negotiations. They are, in effect, a settlement of the permit applicant's potential liabilities under the ESA. The point of compromise is around what is needed to conserve the species and what is economically practicable on the landholding in question, given the information regarding both that is laid on the negotiating table. The quality of the resulting HCP will never be any better than the quality of the process that produces it. If a recovery objective or adaptive management is desirable, that must be established at the table. If better science is desired, that science must be brought to the table, and not at the end in the form of "peer review", when all of the foundational decisions have already been made.

In the end, the salvation of the HCP program will be through improving the negotiation process itself. But we can improve the quality of scientific, economic and legal expertise brought to bear by providing it to the negotiations directly. Thus, one essential reform is to create the capacity - scientific, economic and legal - for direct and effective participation in the negotiations by conservation interests and local communities. Something like an "HCP Resource Center" is needed for this purpose, consisting of a small resident staff and a computerized network of conservation scientists, natural resource economists and wildlife lawyers, representing all relevant sub-specialties and bio-regions, and drawn from academia, consulting firms, and non-profit organizations. These experts would agree to serve on an "as needed, as available" basis on interdisciplinary negotiating teams that would be assembled and tailored to the specific requirements and issues at play in the HCP under development. These teams would be deployed at request of, and on behalf of, community leaders and/or conservationists as full parties to the negotiations.

The Regulatory Assurances Conferred to Induce Private Rights Holders to Produce HCPs Need to be Reformulated To Eliminate the Risks Associated with Scientific Uncertainty.

To make HCPs work better, the incentives need to be set up in a manner that works from the vantage point of both the rights holders and the vulnerable species. The problem today is that, in HCP negotiations, the landowners want to shift the risks associated with complex biophysical systems to the species, which can ill afford them. The permit applicant wants to be absolved of further responsibility for the conservation of the species in exchange for the development concessions he/she makes in the HCP, irrespective of the future population trends for the covered species. That is what is effectively conferred by the “no surprises” guarantee. That is a prescription for potential disaster that could bring the entire HCP program down.

A better solution lies in converting the regulatory assurance from “immunity” to “indemnity”. That means that if monitoring indicates that the species’ prospects would be better served by additional restrictions on the use of land or other mitigation, those could be accomplished without the consent of the landowner, but also without economic penalty to the landowner. The biological risks would, in effect, be absorbed by a compensation fund. The obvious analog to this is an insurance arrangement. Under an insurance approach, the issue of who shoulders the risks associated with HCPs gives way to the issue of who funds the indemnity pool, and how the decisions on compensation will be made.

The lessons from the history of habitat conservation planning reveal that landscape level planning, direct participation of independent scientists sponsored by the local communities and conservation interests, and a reformation of the landowner assurances could secure dramatic improvements in the next era of biodiversity conservation in the United States.

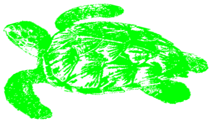
By Gregory A. Thomas and Gloria D. Smith of the Natural Heritage Institute

WORKING GROUP UPDATES

CONSERVATION & DEVELOPMENT

Flanked by crocodiles, frogs and other lesser-known specimens of biodiversity, about 30 members and friends of the CGBD's Conservation & Development Working Group met on September 28 at New York City's Bronx Zoo to take stock of what has come to be known as the field of conservation-based development. After several years of experimenting with a new set of tools that attempts to integrate environment, development and community, the group spent the day at the Bronx Zoo grappling with the challenges of this emerging field: What's working? What's failing? What are the barriers to further progress? What changes in strategy are necessary? What looks promising?

Despite growing evidence that the markets are tripping even Nobel winners, the group wrestled with the issues of scale and capital. How can capital be amassed to provide the leverage necessary to make environmentally-positive development more than what one participant called a "boutique eddy?" How does place-based work interact with the larger forces, particularly economic, that have such a powerful influence on communities? How can funders and grantees get smarter about these and a range of related issues? The group ended the session by compiling an ambitious to-do list that would help get at some of the complex questions raised in what was an impressively provocative discussion. They then retired to a lion's den of a more literal sort.



SYSTEMIC CONTAMINANTS

Shelley Hearne has returned to the Pew Charitable Trusts to pull together the planned Pew Environmental Health Commission — a commission of perhaps 5-8 commissioners getting out three reports over 18 months. The three reports will come from three working groups, most likely on asthma (some prefer children's environmental health), the Centers for Disease Control's scientific capacity and environmental lab, and disease registries and monitoring. Shelley also intends to spend time developing the non-profit "Trust for America's Health" (working title). With initial support from Rockefeller Family Fund and The Bauman Foundation, the goal is to develop broad-based support for public health, including environmental health.

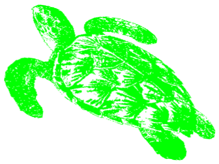
Michael Lerner of the Jenifer Altman Foundation has kept Working Group members abreast of an agreement between hospitals and the American Medical Association to dramatically cut medical waste. The agreement is moving along well in particular regions like Boston, the Great Lakes and San Francisco. However, what appears to be missing is a national strategy to increase the speed with which hospitals comply with the goals set by American Public Health Association and the U.S. Environmental Protection Agency.

MARINES

The development and management of marine protected areas (MPAs) remains of great interest to several working group members. The Packard Foundation is supporting a survey of members regarding their interests in MPAs. Results of the survey will assist the working group in designing the agenda for an MPA funder briefing to be held December 2-3 in San Francisco.

Working group members continue to collaborate on efforts to assure adequate implementation of the Magnuson-Stevens Fishery Conservation Act. Several members are supporting the Marine Fish Conservation Network, as well as regionally-based advocacy organizations focusing on the revision of fishery management plans to address by-catch, overfishing and habitat conservation issues.

On the aquaculture front, the working group's 1997 report, "Farming Salmon: A Briefing Book", has been translated into Spanish for distribution to environmental activists, government officials and the media in Chile.



FORESTS

After a slow summer, the Community-Based Strategies sub-group is swinging into gear. Parts of the group's "Report from Troutdale" have been placed on the Ford Foundation-sponsored conservation-based development web site. The sub-group is continuing to work with the Pinchot Institute regarding community-based forestry projects on U.S. Forest Service lands and hopes to also cooperate with the Communities Committee of the Seventh Forest Congress on other potential funder initiatives in community forestry.

The Sustainable Forestry/Certification sub-group increasingly is seeing the fruits of its labor. Several forest product companies in both the U.S. and Canada are adopting the language of sustainable forestry, indicating an interest in having their operations certified. An effective marketing campaign is pressuring U.S. and European companies to buy products made from certified wood and to avoid products from non-sustainable forests.

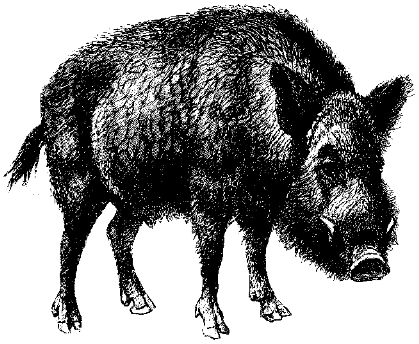
The Private Forests sub-group is nearing completion of a request-for-proposal for a consultancy to facilitate funder collaboration on U.S. private forest conservation. The consultancy's focus will be on identifying conservation strategies and appropriate roles for funders in advancing these strategies. Sub-group members are also very interested in examining synergies between the sustainable forestry and land trust communities.

BIODIVERSITY PROJECT

Both of the Biodiversity Project's capacity initiatives got a jump-start in early September. Training experts from nearly a dozen organizations met and agreed to pool their talents and share resources to strengthen organizational capacity in the environmental movement, with a special emphasis on message and media skills. A formal collaborative is expected to emerge from this effort. In the meantime, the group is developing criteria for quality training to help guide its current efforts (and provide grantmakers with some evaluation criteria). The group is also working on developing some exciting pilot initiatives targeted at key issues and regions.

The "toolshed" initiative is taking shape as well, with practical input from some experienced hands in environmental media. In the next few weeks we'll be surveying media staff from environmental groups around the country, attempting to refine priorities and determine interest in participating in a co-op. At this stage, the priority services the group has identified include high quality media lists, graphics/images and video, and public opinion research.

The partners of the Sprawl and Habitat Awareness Pilot Project met for the second time on October 1, to update each other on the progress of their respective outreach efforts. They provided each other with feedback and began the process of evaluating which strategies have been the most effective for educating and engaging the public on this critical issue.



CALENDAR OF EVENTS

Nov. 4-6. International Symposium in Fisheries Ecology: Essential Fish Habitat and Marine Reserves (Sarasota, FL). Contact: Chuck Jones, (850) 644-2653 or <cjones@cpd.fsu.edu>

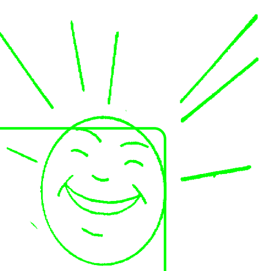
Nov. 5-6. Practice of Restoring Native Ecosystems (Nebraska City, NE). Contact: National Arbor Day Foundation, (402) 474-5655 or <jparsons@arborday.org>.

Nov. 16-18. Incentives for the Protection of Nature: Managing for Biodiversity (Savannah, GA). Contact: Barbara Klein, (650) 855-2413 or <bklein@epri.com>.

Nov. 16-20. 19th Session of the FAO North American Forest Commission (Vellahermosa, Mexico). Contact: United Nations, (212) 963-6208 or <hurtubia@un.org>.

May 7-9. Global Biodiversity Forum (San Jose, Costa Rica). Contact: Ramsar Convention Bureau, 41-22-99-0170 or <ramsar@hq.iucn.org>.

May 31-June 2. 2nd International Conference on Ecosystems and Sustainable Development (Lemos, Greece). Contact: Wessex Institute of Technology, 44-1703-29-3223 or <wit@wessex.ac.uk>.



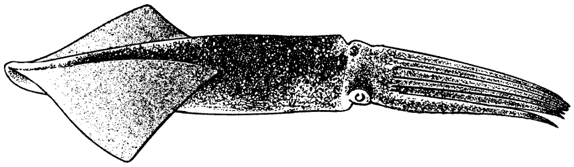
HOT SPOTS ON THE WEB

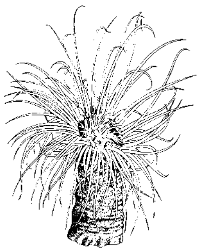
This issue of *Biodiversity Hotspots on the Web* focuses on biodiversity hotspots on the planet. The following three featured websites are geared toward conservation biology and are excellent places to start a web-based search on current studies of the status of species and ecological health, and biodiversity-related conservation projects.

<*http://www.consci.tnc.org/index.html*> The Nature Conservancy has a conservation science link to their main page which provides an in-depth view of a variety of biodiversity issues as well as detailed descriptions of their programs which monitor and work toward conserving at risk species and ecological communities.

<*http://conbio.rice.edu/*>This column wouldn't be complete without mentioning the Center for Conservation Biology Network's site. The site is co-hosted by Rice University and the University of California, Irvine and serves to provide the technical means for the public and academics to use for protecting, maintaining and restoring life on earth. One feature of the site, the Virtual Library of Biodiversity and Ecology, has been highlighted in this column before and is worth mentioning again. Also worth checking out is the Society for Conservation Biology's home page which is linked to the CCBN's home page.

<*http://www.conservation.org*> Conservation International has a web site which looks great but requires a little searching to find the conservation science/biology information. The easiest way to access the data is to scroll down to the bottom of the home page and enter the "in the field" page. From here you can obtain data on CI's science, regional and economic programs. There is also a megadiversity feature which looks at biodiversity priorities by political units (rather than by ecosystems) and a special page on rain forest hotspots.





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